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JOSEPH STECEWYCZ
P.O. BOX 1309
GROTON, MA 01450

EXAMINER	
PERVAN, MICHAEL	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/606,153
Filing Date: June 25, 2003
Appellant(s): TORTOLA, ANGELO

Joseph Stecewycz
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 18, 2008 appealing from the Office action mailed May 23, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,084,584	Nahi et al.	7-2000
5,818,425	Want et al.	10-1998
5,305,197	Axler et al.	4-1994
6,130,603	Briechle	10-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-8, 14-15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahi et al (US 6,084,584) in view of Want et al (5,818,425).

In regards to claim 1, Nahi discloses a remote display system suitable for transmitting a data output signal for providing a display at a remote location, a remote display system comprising:

a base station, said base station including;

a computer for providing the data output signal (see Figure 1 and col. 6, lines 18-23),

a control processor (CPU) for converting the data output signal into a control and data interface radio frequency (RF) signal (see Figure 1 and col. 6, lines 23-28) and

a RF transmitter (transceiver) for broadcasting said control and data interface RF signal (see Figure 1 and col. 6, lines 56-63); and

at least one display device, each display device including;

a RF receiver (transceiver 88) for receiving said control and data interface RF signal (see Figures 1, 3 and col. 3, lines 23-31),

a display controller (72, 76) for converting said control and data interface RF signal into the data output signal (see Figure 3 and col. 10, lines 62-65),

a display unit (32) for providing a display corresponding to the data output signal (see Figures 1, 2A and 3 and col. 7, lines 64-66); and

a power supply for providing power to said RF receiver (transceiver), to said display controller and to said display unit (power controller 70) (Fig. 3).

Nahi does not disclose a power supply for providing power only to said RF receiver, to said display controller and to said display unit.

Want discloses a RF (wireless) receiver, display controller (computer) and display unit (display screen) (col. 1, line 65-col. 2, line 6; it would be inherent that there be a power supply to power the components).

It would have been at the time of invention to modify Nahi with the teachings of Want, a RF (wireless) receiver, display controller (computer) and display unit (large display screen), by replacing the display device of Nahi with the display device of Want because it would allow more people to view the display at one time.

In regards to claim 2, Nahi discloses a control and data interface RF signal comprising display information (see Figure 1 and col. 3, lines 59-68; col. 4, lines 1-21; col. 7, lines 19-25; since the host computer is running the operating system and the tablets can operate the host computer without a physical connection there must be some visual representation on the tablet's LCD in order for the user to operate it).

In regards to claim 3, Nahi discloses display information being generated by the host computer (see Figure 1 and col. 4, lines 9-21; col. 7, lines 19-25; since the host computer is running the operating system and the tablets can operate the host computer without a physical connection the host computer must generate the signal and then send it to the tablet).

In regards to claim 4, Nahi discloses display information obtained from at least one of a remote server and a remote operator via the internet (see Figure 1 and col. 7, lines 33-40).

In regards to claim 6, Nahi discloses RF transmitter (transceiver) and receiver (transceiver) each operating at a frequency comprising a member of the group consisting of a 400 and 900 MHz band (col. 6, lines 61-63; the wireless transceivers must be of the RF type since a low-power 900 MHz frequency is implemented).

In regards to claim 7, Nahi discloses a RF receiver (transceiver) powered by a battery (col. 9, lines 27-29; since the tablet houses a transceiver and the tablet is powered by a battery it is therefore inherent that the transceiver is also powered by the battery).

In regards to claim 8, Nahi discloses a display unit comprising of a LCD (col. 7, lines 64-65).

In regards to claims 14-15 and 20, they claim method steps paralleled to the structural means cited in claims 1, 6, 4 respectively and are therefore rejected for the same reasons, see MPEP 2112.02 *In re King* ("When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process").

Claims 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahi et al in view of Want et al in view of Axler et al (US 5,305,197).

In regards to claim 5, Nahi and Want do not disclose display information comprising at least one of an advertisement, a banner and product data.

Axler discloses display information comprising at least one of an advertisement, a banner and product data (col. 4, lines 22-24 and 46-53; the scroll sign acts as a banner since sign programming data is sent to it, the signal contains banner data). It would have been obvious at the time of invention to modify Nahi with the teachings of Axler because it would allow a user to purchase a product or find the new product or price of the product on the hand-held device.

Claims 9-12 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahi et al in view of Briechle (6,130,603) in view of Axler et al.

In regards to claim 9, it includes all of the limitations of claim 1, but also further limits by adding a duplex signal and a single RF software module that includes a controller and RF receiver/transmitter similar to that of claim 1, see claim 1 rejection.

Nahi discloses the use of a duplex signal (bi-directional signal) (col. 6, lines 56-61).

Nahi does not disclose a RF transceiver and controller as one subsystem.

Briechle discloses a RF transceiver and controller as one subsystem (col. 3, lines 54-64).

It would have been obvious at the time of invention to modify Nahi with the teachings of Briechle since power would be conserved.

In regards to claim 10, Nahi and Briechle do not disclose a display device further comprising a proximity sensor.

Axler does disclose a display device comprising a proximity sensor (col. 4, lines 19-22). It would have been obvious at the time of invention to modify Nahi with the teachings of Axler since it would allow for detection of traffic and consumers in the area.

In regards to claim 11, Nahi and Briechle do not disclose a controller configured to read signals from a proximity sensor.

Axler discloses a controller configured to read signals from a proximity sensor (see Figure 13). It would have been obvious at the time of invention to modify Nahi with the teachings of Axler because it would allow the controller to keep track of traffic and consumers in the area.

In regards to claim 12, Nahi discloses a display device comprising a touch screen for providing feedback from a user (col. 10, lines 66-67 and col. 11, line 1).

In regards to claims 16-19, they claim method steps paralleled to the structural means cited in claims 12, 11, 12, 12 respectively and are therefore rejected for the same reasons, see MPEP 2112.02 *In re King* ("When the prior art device is the same as

a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process").

(10) Response to Argument

Appellant's arguments filed June 18, 2008, with respect to claims 1-4, 6-8, 14-15 and 20 have been fully considered but they are not persuasive.

In regards to claim 1, Appellant (on pages 6-9 of Appeal Brief) argues that Nahi (US 6,084,584), Want (US 5,818,425) or any such combination fails to disclose a power supply for providing power only to said RF receiver, to said display controller, and to said display unit. Examiner respectfully disagrees.

The examiner has acknowledged in the previous Office Action that Nahi does not explicitly disclose said power supply. As a result, the examiner relied upon the background of Want, which teaches of "a system having a conventional personal computer, computer workstation or the like connected to a wireless receiver and a large display screen…". Appellant has cited sections of the detailed description of Want which teaches the use of a transceiver. However as stated earlier, the examiner did not rely on this portion of Want to teach said power supply, but relied upon the background of Want to teach the claimed limitation which only require having power supply to be applied to only a receiver, and not a transceiver as the taught by Nahi and Want's use of transceiver.

Claims 2-3, 6-8, 14-15 and 20 are argued for the same reasons as claim 1. Therefore, the response is the same as in claim 1.

Appellant's arguments filed June 18, 2008, with respect to claim 5 have been fully considered but they are not persuasive.

In regards to claim 5, Appellant (on pages 9-10 of Appeal Brief) argues that since Nahi and Axler (US 5,305,197) both require two-way communication, any combination of the two references would not teach “a RF receiver for receiving said control and data interface signal”. Examiner respectfully disagrees.

The Axler reference was merely used to show the concept that display information could contain advertisement, banner or product data and not to teach a RF receiver for receiving data. The entire invention of Axler is not being incorporated into the combination of Nahi and Want, which was used to teach the limitation of a RF receiver for receiving data, but rather the concept taught by Axler of display information containing advertisement, banner or product data is being incorporated into the teachings of Nahi and Want.

Appellant's arguments filed June 18, 2008, with respect to claims 9-12 and 16-19 have been fully considered but they are not persuasive.

In regards to claim 9, Appellant (on pages 10-11 of Appeal Brief) argues that Briechle (US 6,130,603) does not disclose a unitary RFOS operating software module. Examiner respectfully disagrees.

Even though Figure 3 does not disclose the internal electronic configuration, it does disclose "a controller 26 (typically a microcontroller containing a microprocessor) has discrete lines 29 and 30 which address the segments of the LCD 24. A crystal 28 provides a time reference for the controller 26. A battery 27, typically a lithium cell, powers all the components of the label 23. The controller 26 communicates with the rest of the system via antenna 22, and conventional analog circuitry, not shown in FIG. 3, modulates and demodulates the RF signals to and from the antenna 22". Since these elements work together as a unit, they can be considered a unitary module.

Claims 10-12 and 16-19 are argued for the same reasons as claim 9. Therefore, the response is the same as in claim 9.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Pervan

/Michael Pervan/

Examiner, Art Unit 2629

Conferees:

1) /Amr Awad/

Supervisory Patent Examiner, Art Unit 2629

2) /Amare Mengistu/

Supervisory Patent Examiner, Art Unit 2629